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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,026	02/25/2004	Akiko Niimi	118830	9042

25944 7590 04/17/2007  
OLIFF & BERRIDGE, PLC  
P.O. BOX 19928  
ALEXANDRIA, VA 22320

EXAMINER
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IZAGUIRRE, ISMAEL

ART UNIT	PAPER NUMBER
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3765

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/17/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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**Office Action Summary**

Application No.

10/785,026

Applicant(s)

NIIMI, AKIKO

Examiner

Ismael Izaguirre

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/25/04</u> .   | 6) <input type="checkbox"/> Other: ____.                          |

## **DETAILED ACTION**

### **SPECIFICATION**

#### ***Abstract***

The abstract of the disclosure is objected to because it includes the word "means". This word should be reserved for inclusion in the body of a claim. Deletion of the words "means of" is suggested.

### **CLAIMS**

#### ***Summary***

Claim 1 is the independent claim under consideration in this Office Action.

Claims 2-6 are the dependent claims under consideration in this Office Action.

#### ***Claim Rejections - 35 U.S.C. § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 are rejected under 35 U.S.C. § 102(b) as being anticipated by Benstock (5,003,902).

Benstock et al. teach forming a seam between two pieces of material and describes processing the seam area by providing a melting heat and pressure for partially melting the materials and providing the seam with waterproofing characteristics. Benstock et al. teach embroidering and joining two materials dependent on an image

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data desired for forming a gown. Then, a heat treatment step for heating the fabric by using a hot air blower 26 is provided for heating the fabric and thermoplastic thread 18 and 20. Pressure is also provided for compressing the seam area. It is this heat and pressure that changes the texture of the thread by providing a partial melting of the thread and seam area and a compression of the seam.

Claims 1 and 3 are rejected under 35 U.S.C. § 102(b) as being anticipated by Sherrill (3,567,567).

Sherrill teaches forming an article having decorative embroidery thereon and describes the process of providing the embroidery with a melting heat for fusing the embroidery components. Sherrill teaches the embroidery as comprising fusible thread portions 22b, which are subjected to a heating process where the material is fused, and thus the texture of the embroidered part changes due to the heat. The portion 22b comprises a material, which has a lower melting temperature than the carrier thread 22a, and thus in the end the texture of the twisted carrier thread is changed and thus the texture of the embroidery is changed accordingly.

***Claim Rejections - 35 U.S.C. § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-6 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Sherrill in view of Tajima (JP05-272,046).

Sherrill discloses the invention substantially as claimed. See above for specific explanations of the structural details of this document. Briefly, Sherrill teaches decorative embroidery for an article, which includes a pattern 10 on the article and heat treating the materials for melting portions of the materials and changing the texture of the embroidery. However, Sherrill does not suggest a computer for forming the image using computerized data and a printer for providing an ink image on the article to be embroidered.

Tajima teaches an embroidery assembly including a computerized machine with a printer and an image-forming center, which uses desired data to form an embroidery image, and a printer receives that image data and provides the cloth materials with an ink image of the desired embroidery image.

It would have been obvious to a person having ordinary skill in the art at the time of Applicant's invention to construct the embroidery of Sherrill as including an image formed by computerized data and placed on the article using an ink-jet printer. Providing such a computer would allow the proper placement and image quality desired of the article.

#### ***PERTINENT CITATIONS***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Clarius, Shimada, Starita et al., Komatsu and Brunner illustrate

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embroidery or stitching including thermoplastic threads. Haigh and Sernaker illustrate embroideries including the use of thermoplastic sheets.

### ***INQUIRIES***

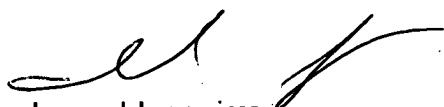
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ismael Izaguirre whose telephone number is (571) 272-4987. The examiner can normally be reached on M-F (8:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on (571) 272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Ismael Izaguirre  
Primary Examiner  
Art Unit 3765

II  
4/12/07